

REMARKS

Claims 6-12 are pending in this application. Claims 1-5 were canceled by the Preliminary Amendment filed June 16, 2005. Applicant notes that the Office Action incorrectly lists claims 1-12 as pending and that claims 1-12 were examined. Claims 6-12 are amended as to form so as to place them in closer conformance with U.S. patent practice. The amendments were not made to overcome rejection. No new matter is added.

The Office Action asserts that the spacing of the lines of the specification is insufficient. Applicant has attached hereto a substitute specification that contains no new matter and in which the lines of the specification are sufficiently spaced and that includes numbered paragraphs. The substitute specification contains editorial changes compared to the original specification as filed and as modified by the replacement sheets. A marked-up copy of the substitute specification is also attached hereto for the Examiner's reference.

The Office Action rejects claim 6 under 35 U.S.C. 102(b) as being anticipated by Pricop et al. (RO117754). The Office Action also somewhat similarly rejects claims 1-12 under 35 U.S.C. 103(a) as being obvious over Pricop et al. in view of Campo (Poultry Science, 70: 1469-1473, 1991). Regarding the latter rejection, Applicant assumes that the rejection was intended to include claims 6-12, since claims 1-5 were previously canceled. In any case, regarding claims 6-12, Applicant

traverses these rejections for at least the reasons set forth below.

As amended, the present claims require, *inter alia*, “crossing of a recessive (bb) homozygous red Rhode Island male with a dominant (BB) homozygous Marans female to yield a F1 generation that is 50% heterozygous (Bb) males with black juvenile feathers on the body and a white spot on the head and 50% heterozygous (bB) females with black juvenile feathers on the body and head; after 18 weeks growing of F1 progeny, crossing the hybrid F1 heterozygous (Bb) males with black juvenile feathers on the body and a white spot on the head with the heterozygous (bB) females with black juvenile feathers on the body and head resulting in an F2 generation; and assessing the F2 generation genetically by feather color when one day-old and at the age of 18 weeks” (see claim 6, emphasis added).

In all of Pricop et al., Campo, and the presently claimed invention, the F1 males are barred heterozygous, genotype Bb.

On the other hand, the F1 females differ as follows:

-In Campo, the females are non-barred, hemizygous genotype (b-). Campo does not teach or suggest the presence of the barred gene in chromosome W.

-In Pricop et al., the females have reddish black feathers on the head and neck and black feathers on the body. The heterozygous genotype (bB) provides

no explanation concerning the gene mechanism that determines day-old chick sexing by the color of the juvenile feathers.

-In the presently claimed invention, the interaction between the gold and barred genes of the heterozygous reddish-black females (bB) is altered by the epistatic action (E) of the dominant sex gene over the barred gene. Thus, the allelic interaction is changed in females (bB) and remains unchanged in males (Bb), which allows hybrid day-old chick sex determination by the color of the juvenile feathers.

Thus, as Pricop et al. is missing elements of the present claims, Pricop et al. can not anticipate the present claims. Also, as the combination of Pricop et al. and Campo is missing elements of the present claims, the present claims would not have been obvious over such a combination.

For at least the above reasons, reconsideration and withdrawal of the rejection of claim 6 under 35 U.S.C. 102(b) as being anticipated by Pricop et al., of the rejection of claims 6-12 under 35 U.S.C. 103(a) as being obvious over Pricop et al. in view of Campo, and allowance of all of pending claims 6-12, are respectfully requested. Should there be any questions, the Examiner is invited to contact the undersigned at the below listed number.

Please charge any additional fees necessary for consideration of the papers filed herein and refund excess payments to Deposit Account No. 50-2929, making reference to docket no. P02228.

Respectfully submitted,
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Attachment: Amended Abstract
Substitute Specification